REMARKS

Reconsideration and allowance of this application are respectfully requested. By this paper, the Specification and claims 1, 3, 5-8, 11, 12, and 15-17 are amended. Support for the subject matter added to claim 11 can be found, for example, in paragraph [0011] of the disclosure. Claims 1-17 remain pending.

In numbered paragraph 2 on page 2 of the Office Action, the Examiner alleges that Applicants' Oath is defective. In a telephone conversation with Applicants' representative on August 2, 2007, the Examiner indicated that a declaration including all of the inventors' signatures would overcome this objection. Applicants submit herewith a Declaration that addresses the Examiner's concerns. Withdrawal of this objection is respectfully requested.

In numbered paragraph 3 on page 2 of the Office Action, the Specification is objected to for failing to include a brief description of Figure 4. Applicants respectfully traverse this rejection. However, in an effort to expedite prosecution, Applicants' disclosure is amended to briefly describe Figure 4. Withdrawal of this objection is respectfully requested.

In numbered paragraph 4 on page 2 of the Office Action, claims 1-7, 8-10, and 11-17 are objected to for alleged informalities. Applicants have amended these claims for clarity and respectfully request withdrawal of this objection.

In numbered paragraph 5 on page 4 of the Office Action, claims 11-17 are rejected under 35 U.S.C. §101 for allegedly being directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

The preamble in independent claim 11 recites "a machine readable medium comprising a computer program for causing a computer to execute a method of

discovering a network." Because the recited features of this method constitutes functional descriptive material, and the machine readable medium is effectively a computer readable medium, Applicants respectively submit that independent claim 11 and its corresponding depending claims are within one of the enumerated statutory classes.

The Examiner is reminded that functional descriptive material consists of data structures and computer programs, which impart functionality when employed as a computer component. See MPEP §2106.01. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and is statutory since the use of technology permits the functional descriptive material to be realized. See Lowry 32 F.2d at 1583-84, 32 USPQ2d at 1035. When a computer program is claimed in a process where the computer is executing the computer program's instructions, USPTO personnel should treat the claim as a process claim. See MPEP §2106.01(I). For at least these reasons, withdrawal of this rejection is respectfully requested.

In numbered paragraph 7 on page 5 of the Office Action, claims 1-17 stand rejected under 35 U.S.C. §102(b) as anticipated by *Raab et al* (U.S. Patent No. 5,850,397). Applicants respectfully traverse this rejection.

As shown in exemplary Figures 1-4, Applicants' disclosed embodiment relates to solutions for discovering a network. These solutions includes dividing a network into zones of network devices, identifying devices in the zone that have simple network management protocol access, and collecting data from the identified devices. The devices are identified through a set of queries, which search for predetermined values in any of the devices in the zone. The collected data is

stitched into a topology of the network and it is determined whether all zones in the network have been processed.

Applicants' claims broadly encompass the aforementioned embodiment by reciting a system and method that comprises, in part, identifying devices in a zone of the network that have SNMP access through a set of queries.

Raab fails to disclose every element recited in Applicants' claims, and thus fail to establish a *prima facie* case of anticipation. *Raab* teaches a method that determines the topology of a mixed media network. This method divides a network into communities of devices called spheres (col. 3, lines 16-20). In each sphere, a sphere topology agent generates and accumulates topology data for devices on the sphere using a topology mechanism that is supported by the devices within the sphere (col. 4, lines 22-25). A global topology agent collects the topology data for each sphere from the various sphere agents and assembles the data to determine the global topology of the mixed media network (col. 12, lines 5-35).

Raab discloses that the global topology agent sends a seed to the appropriate sphere agent based on the determined media type of the network. There is no evidence that *Raab* executes a query to identify a sphere agent. It appears that *Raab* infers that the sphere agents are known or established prior to the point at which the media type of the network is determined. In this manner, once the media type is determined the known agent of a sphere can be contacted. Therefore, *Raab* effectively teaches away from using a set of queries to identify devices as claimed performing a search to identify an agent within a sphere would be unnecessary.

To properly anticipate a claim, the document must disclose, explicitly or implicitly, each and every feature recited in the claim. *See* Verdegall Bros. v. Union

Oil Co. of Calif., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). For these reasons, and those discussed in detail above, withdrawal of this rejection is respectfully requested.

In numbered paragraph 9 on page 8 of the Office Action, claims 1, 8, and 11 stand rejected under 35 U.S.C. §102(e) as anticipated by *Goringe et al* (U.S. Patent Publication No. 2003/0043820). Applicants respectfully traverse this rejection.

Goringe does not anticipate Applicants' claims because it fails to disclose or suggest at least identifying devices in a zone that have SMNP as recited therein.

Goringe discloses a system that determines a topology associated with a network. A data collection agent gathers information about the network topology by contacting a selected router in each routing region (paragraph [0029]). A data analyzing agent analyzes the gathered information to generate an output from which the network topology can be derived (paragraph [0023]). The data collection agent uses a router tape to identify a selected router in determining whether the routers have been contacted (paragraph [0023]). Based on a router, link, network, and/or interface list, a map or model of topology is generated.

Applicants respectfully submit that one of ordinary skill would not reasonably interpret the use of a router table as described by *Goringe* as being analogous to Applicants' claimed set of queries. Moreover, *Goringe* fails to disclose that the identified routers have SMNP access. Because *Goringe* fails to disclose all of Applicants' claimed features, withdrawal of this rejection is respectfully requested.

Based on at least the foregoing amendments and remarks, Applicants submit that claims 1-17 are allowable, and this application is in condition for allowance. Accordingly, Applicants request a favorable examination and consideration of the

instant application. In the event the instant application can be placed in even better form, Applicants request that the undersigned attorney be contacted at the number below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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By: Patrick C. Keane #51,522
Patrick C. Keane
Registration No. 32858

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620